

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 102 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KISHORE HARIRAM BHATRIJA

Versus

SAJJANSINH JHA

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Appearance:

MR RC KODEKAR for Petitioner

PUBLIC PROSECUTOR for Respondent No. 2

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CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE R.P.DHOLAKIA

Date of decision: 19/02/98

ORAL JUDGEMENT (Per Patel, J.)

The applicant has filed this petition on the ground that his wife and three children aged 13, 9 and 4 are detained against their desire and are wrongfully confined.

The tenor of the petition makes it clear that wife of the petitioner, Reshma, developed intimacy with the respondent No.1. Learned advocate also stated that the respondent No.1 used to come to the house frequently when he was away from his house. Therefore, it appears that in view of the illicit relations or intimacy, petitioner's wife has left the house of the petitioner with her children. The averments made in the petition are not as per the Rules and particularly, if the affidavit is read, it is difficult to say as to what part of the petition is true to the knowledge, belief and information. The relevant material is also not indicated as to what is the source of information and what are the reasons for belief.

It is also conveyed to us by learned advocate that police is investigating the crime in question, but the petitioner is in a hurry to get the custody of the children, and, therefore, has approached this Court. The petitioner's wife being major, is free to go anywhere she likes, and, therefore, it cannot be said without any cogent and convincing material that his wife and children have been wrongfully confined against her desire.

Hence this application is rejected.

csm./ -----